

Memo regarding MCLA 600.3205 a

- **Clarification is needed in the statute regarding the party who is able to request a meeting. There are portions which indicate that a housing counselor must request the meeting from the designee and other portions where it seems to indicate that the borrower(s) can request the meeting directly. NOTE: We are going forward with a meeting requested by the borrower to avoid potential litigation.**
- **Requests for meetings should be required to be in writing. We have seen several cases where the borrower(s) say they requested a meeting where no such request has been made. Our firm asks for the request in writing, but cannot require it as the law does not expressly do so and some borrowers refuse.**
- **The exemption for a non principal residence is clear. However, the method in determining this exemption is unclear. We have had cases where the borrower indicates that they have applied for a PRE which has not been granted yet. There is NO way to ascertain this information unless it is of public record. We even see abandoned homes which are considered primary residences.**
- **A cutoff date for return of requested financials and documentation should be implemented. Many borrowers are waiting until the 90 day mark to return their documentation. Some even return it on the 91st day and although some of our clients are willing to review this documentation to avoid potential problems, this does not allow the designee or client/servicer ample time to review the documentation and schedule a meeting. Some borrowers are abusing the law.**
- **It is widely reported that many borrowers are being advised to default "strategically" in order to obtain better mortgage terms. Again this is an abuse of this law and federal programs.**
- **Borrowers are requesting meetings even if their current payment is already less than 38% of their income. There should be a provision to immediately proceed to foreclosure by advertisement in such cases to avoid further abuse. In the HAMP program if a borrower's Debt to Income is already less than 31% they do not qualify for the program.**
- **Lenders/Servicers are not looking closely at state laws/programs as they are already in the midst of all the federal programs. Many will proceed judicially if borrowers do not qualify for federal programs, whether they qualify under MCLA 600.3205a or not.**
- **The current statute only looks at PITIA (Principal, Interest, Taxes, Insurance, Association dues) ratios. Lenders are not utilizing this formula as they compare income vs. expenses which is infinitely more sensible. Many borrowers technically qualify for a loan mod under Michigan law, however lenders will not modify their loans because they are negative encumbered each month (due to expenses such as car payments, cable TV, etc).**

Since the enactment of the law, 33% of eligible borrowers have requested a meeting through our office. Of that 33%, 24% of those did not provide the necessary documentation to calculate their eligibility. Of the remaining 76%, only 9% have successfully qualified for and entered into loan modifications with their lender. 11% are currently in the process of loan modification review. 4% qualified under Michigan law but were denied and judicial foreclosures have commenced.

While we believe the motivation behind the enactment of the law is admirable, we also see that improvements could be made that would make the law more reasonable and more effective.

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